

APPROVED: Meeting No. 46-90

ATTEST: *Sharon D. Gran*

MAYOR AND COUNCIL  
ROCKVILLE, MARYLAND  
Meeting No. 45-90

November 26, 1990

The Mayor and Council of Rockville, Maryland, convened in General Session in the Council Chamber, Rockville City Hall, Maryland Avenue at Vinson Street, Rockville, Maryland, on November 26, 1990, at 7:30 p.m.

PRESENT

Councilmember James F. Coyle (Mayor Pro Tem)

Councilmember Viola D. Hovsepan

Councilmember James T. Marrinan

Councilmember David Robbins

ABSENT

Mayor Douglas M. Duncan (Sick Leave)

In attendance: City Manager Bruce Romer, City Clerk Sharon Gran and City Attorney Paul Glasgow.

Upon motion of Councilmember Hovsepan, duly seconded and unanimously passed, Councilmember James F. Coyle was designated as Mayor Pro Tem for the evening.

Re: City Manager's Report

1. This past week the City was notified by the State Highway Administration that a traffic signal would be installed at Falls Road and Kersey Lane with projected completion in the summer of 1991.

Mayor Pro Tem Coyle noted that this is exciting news as the City has been pursuing the installation of a traffic signal at this site for many years.

2. A number of business owners have been sent letters notifying them that their non-conforming signs in the City must be removed or modified to be in accord with the Sign Ordinance by early 1992 and setting forth the procedure for appeals to the Sign

Meeting No. 45-90

2

November 26, 1990

Review Board. These notices have generated a lot of interest and, in order to achieve a smooth transition, staff will be working closely with the Chamber which has appointed a special task force on this issue.

3. With respect to the Ritchie Parkway construction project, considerable progress is being achieved. The concrete pouring on the bridge deck has been completed; the contractor is ready to begin paving west of the bridge over I-270 toward Seven Locks Road; clearing is completed on the entire right-of-way; and earth moving has begun.

4. The Maryland Municipal League has published its 1991 Statement of Legislative Priorities, and copies have been distributed to the Mayor and Council. Each year, the League selects four or five priority issues, and two of this year's priority issues were identified by the City of Rockville: legislation to establish a more flexible and equitable zoning variance standard with a redefinition of hardship; and a resolution to provide for state reimbursement to local governments for additional costs imposed by state mandated legislation or regulatory changes. Councilwoman Hovsepien serves on the Legislative Committee and is assisted by Rick Kuckkahn.

5. The City's Comprehensive Annual Report for fiscal year 1990 is completed and has been distributed to the Mayor and Council, credit rating agencies, bond holders and interested citizens. Other individuals wishing to obtain a copy may call the City Manager's Office or the Finance Director's Office.

6. With respect to Item #21 on the agenda, a suggested timetable for processing of an animal control ordinance has been distributed to the Mayor and Council for discussion later in the meeting.

7. The City of Rockville, with the support of the Department of Recreation and Parks, has undertaken a project to send a Holiday Package to our troops in the Persian Gulf. Over 2,000 items were donated and are being mailed overseas now.

Meeting No. 45-90

3

November 26, 1990

Re: Proclamation declaring the week of November 25 through December 1, 1990, as "Home Care Week" in Rockville.

Proclamation No. 31-90

By a unanimous vote of the Mayor and Council, the week of November 25 through December 1, 1990, was declared "Home Care Week" in Rockville. Councilmember Marrinan read the Proclamation, the full text of which can be found in Proclamation File No. 5 of the Mayor and Council. Marsha Zelle, Director, Potomac Home Health Care, accepted the Proclamation.

Re: Proclamation declaring the week of November 26 through December 2, 1990 as "Bible Week" in Rockville.

Proclamation No. 32-90

By a unanimous vote of the Mayor and Council, the week of November 26 through December 2, 1990, was declared "Bible Week" in Rockville. Councilmember Hovsepien read the Proclamation, the full text of which can be found in Proclamation File No. 5 of the Mayor and Council. Ronald D. Knoll, Chairman, Spiritual Aims Committee, and other members of the Kiwanis Club of Rockville accepted the Proclamation.

Re: Presentation of check to Montgomery County Special Olympics

A check in the amount of \$3,089 was presented to Sean Maloney of Montgomery County Special Olympics, representing the proceeds of beverage sales at Rockville's 1990 Oktoberfest, held September 22 and September 23. Mr. Maloney indicated that the monies would be used for the athletes training program at Mark Twain School and the Rockville campus of Montgomery College.

Re: Citizens' Forum

At this time, the Mayor Pro Tem opened the meeting to hear from any citizen who wished to address the Mayor and Council.

1. John Tyner, 5911 Halpine Road, as President-Elect of the Rockville Chamber of Commerce, requested that the City present to the Chamber at a luncheon to be held on January 8, 1991, a flown Rockville City flag which will remain on display in the Chamber's offices.

2. Ruth Loevinger, 12 Lakeside Overlook, voiced strong objections to the proclamation of Bible Week by the Mayor and Council.

Mayor Pro Tem Coyle noted that these objections do raise a policy issue and that the Mayor and Council will review same to determine whether Bible Week should be continued in future years.

3. Mark Joffe, 402 Green Pasture Drive, urged the Council to act quickly to enact fair and reasonable legislation to revise the City's Animal Control Ordinance. He stated that his family and his neighbors feel that the Animal Control Board's decision in the matter of the Rottweilers was counter to good public policy. He suggested that the Mayor and Council endorse the guidelines of the Humane Society of the United States and recommend their consideration by the Animal Control Board. Mr. Joffe also addressed the imposition of civil penalties against the owner(s) of the Rottweilers.

4. Amy Vachon, 3 Dairyfield Court, presented the Mayor Pro Tem and Council with a petition signed by North Farm residents indicating that strong punitive action against the owner of the Rottweilers is appropriate and urging the City to appeal the Animal Control Board's most recent order in this matter.

5. John Delaney of Linowes and Blocher, attorneys for First National Bank of Maryland, addressed Item #13 on the agenda, preliminary review of a text amendment which would accommodate a proposed drive-in bank facility in the TCO-1 Zone. He commented that

Meeting No. 45-90

5

November 26, 1990

First National Bank has searched extensively for a suitable drive-in bank site and feels that the site at 250 N. Washington Street is ideal. Both Mr. Delaney and Alan Kempskey of First National Bank expressed hope that the Mayor and Council would not follow staff's recommendation to dismiss this application but, instead, let it proceed through the normal process.

6. Jean Collin, 4 Dairyfield Court, questioned whether or not the City was going to pursue criminal prosecution of Mrs. Levin, owner of the Rottweilers.

Mayor Pro Tem Coyle responded that the City is reviewing all possible alternatives.

7. George Northway, 903 Leverton Road, noted Councilmember Hovsepian's interest in pursuing annual inspections of rental properties in the City and expressed hope that the Council would seriously consider such a change. He also commented that the City should do a better job in identifying rental units that are not licensed and suggested implementation of a program to examine this issue citywide.

The City Manager responded that this would be a budget issue which would be brought forward during the budget cycle.

8. Len Novick, 4 Hollyberry Court, noted the North Farm neighborhood's dissatisfaction with the opinions of the Animal Control Board and urged the Mayor and Council to act quickly to appeal the Board's decision in the Rottweiler matter and ensure that the hearings are reopened.

9. Ruth Hanessian, 303 Highland Avenue, presented the Mayor and Council with a petition from responsible pet owners in the City in support of the decision of the Animal Control Board in the Rottweiler incident.

10. Leah Barnett, 19 Orchard Way North, thanked the Mayor and Council for their persistence in pursuing the approval of a traffic signal at Falls Road and Kersey Lane. She also addressed Item #13 on the agenda, preliminary review of the text

Meeting No. 45-90

6

November 26, 1990

amendment which would accommodate a drive-in bank in the TCO-1 Zone, indicating that such a proposal would not detract from the neighborhood.

11. Steve Beck, agent for John T. Bell, referenced Item #13 on the agenda indicating that the drive-in bank would be an asset to the City. The lease of the present tenant at 250 N. Washington Street expires February 28, 1991; thus, the property would remain vacant pending final action on the text amendment application.

12. William Meyer, 804 Leverton Road, referenced Item A on the Consent Agenda, waiver for on-site storm water management in connection with the construction of additional parking spaces. He inquired as to why the owner of the property could not provide on-site storm water management and requested information as to what CIP project site in the Rock Creek drainage area would be the recipient of the contribution funds.

The City Manager responded that he would telephone Mr. Meyer the following day with that information.

Mr. Meyer also requested clarification on the Cultural Arts Commission's recommendation of the Pinneberg sculpture for Welsh Park. John Moser, Chairman of the Cultural Arts Commission, responded to Mr. Meyer.

There being no other citizen wishing to be heard, the Mayor Pro Tem closed the Citizens' Forum portion of the meeting.

Re: Appointments

Upon motion of Councilmember Hovsepian, duly seconded and unanimously passed, Jane French was reappointed to a two-year term on the Alternative Community Service Commission.

Upon motion of Councilmember Robbins, duly seconded and unanimously passed, Marilyn Scott was reappointed to a two-year term on the Cultural Arts Commission.

Upon motion of Councilmember Hovsepian, duly seconded and unanimously passed, the following individuals were appointed to the Task Force on Sprinkler Retrofitting: Robert Beall, John Best, Kevin Deckard, Michael Friedman, James Henry, John Livingston

Meeting No. 45-90

7

November 26, 1990

III, Linda MacDermid, Charles Rand, Charles Ryan, Patrick Smith, Ken Sutton, William West and Joseph Whalen.

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, Paula Strain was reappointed to a two-year term on the Recreation and Park Advisory Board.

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, Michael Weikert was appointed to a three-year term on the Science and Technology Commission.

Re: Approval of Minutes

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the minutes of Meeting No. 41-90 (October 22, 1990) were approved, as written.

Upon motion of Councilmember Hovsepian, duly seconded and unanimously passed, the minutes of Meeting No. 42-90 (October 23, 1990) were approved, as written.

Upon motion of Councilmember Robbins, duly seconded and unanimously passed, the minutes of Meeting No. 43-90 (October 29, 1990) were approved, as written.

Upon motion of Councilmember Hovsepian, duly seconded, with Councilmember Robbins abstaining, the minutes of Meeting No. 44-90 (November 19, 1990) were approved, as written.

Re: Consent Agenda

Councilmember Robbins requested that Item A be removed from the Consent Agenda. Upon motion of Councilmember Robbins, duly seconded and unanimously passed, the following Consent Agenda Items were approved:

- B. Authorization to purchase five police patrol vehicles under the Metropolitan Area Government Rider Clause through the Arlington County bid for the total cost of \$62,313.30. The vendor would be JKJ Chevrolet of Vienna, Virginia.

These vehicles would replace older vehicles in the City's fleet. The bid price is less than the \$70,000 budgeted for this transaction.

- C. Approval of "Offer of Agreement" contract with D.F. Antonelli, Jr.

The staff has negotiated this agreement for the acquisition of right-of-way needed for the extension of Ritchie Parkway. The agreement reflects a purchase price of \$55,000 for the needed property.

- D. Adoption of revised Civic Center regulations.

The Recreation and Park Advisory Board has recommended revised definitions for the Civic Center general operating regulations which give a better definition to groups which may be eligible for Rockville and non-Rockville public rates. Also, a process of appeal is recommended for inclusion in the regulations. The new definitions would be effective January 1, 1991.

- E. Adoption of Resolution No. 28-90 (the full text of which can be found in Resolution Book No. 9 of the Mayor and Council) to establish a 110% homestead credit percentage for municipal property taxes for 1991.

Effective January 1, 1991, municipal corporations may establish a ceiling of 10% or less on the annual percentage increase in assessed value to be applied to owner-occupied residential property. Staff recommends that a ceiling of exactly 10% be approved.

- F. Submission of financial reports summarizing the results of City operations for the period from July 1, 1990, through October 31, 1990.



Meeting No. 45-90

9

November 26, 1990

Re: Approval of waiver for on-site Storm Water Management for the property at Taft Street and East Gude Drive in the Rock Creek drainage area, and acceptance of a \$2,400 contribution for the off-site SWM fund.

The developer, MCG Associates, plans the construction of additional parking spaces.

Councilmember Robbins had asked to have this item (A) removed from the Consent Agenda in order to request feedback on the concerns raised by Mr. Meyer during Citizens' Forum. It was agreed that approval of this waiver would be deferred until the next meeting so that the Mayor and Council could be provided with the additional information requested by Mr. Meyer.

Re: Presentation by Cultural Arts Commission of proposals of three Pinneberg artists for artwork for Welsh Park.

John Moser, Chairperson of the Cultural Arts Commission, provided background information regarding how the exchange was initiated and the process which has progressed to the selection of proposals from three Pinneberg artists. "Raumskulptur" by Gabriele Schmidt-Heins was recommended by the Pinneberg selection panel for the award of the art commission in the amount of \$30,000, and the Cultural Arts Commission and staff concur with this recommendation. Mr. Moser indicated that the artist would come to Rockville in early spring to visit the site and that the sculpture can be constructed in Rockville. Discussion followed regarding the materials required for the construction as well as factors such as its height.

According to Mr. Moser, over 600 flyers were distributed to area residents inviting them to attend the October 15 meeting of the Cultural Arts Commission where an in-depth presentation of the three proposals was provided by Dr. Nolte of Pinneberg.

Meeting No. 45-90

10

November 26, 1990

Only three residents appeared at that meeting and no objection was noted to the recommendation of "Raumskulptur."

Francoise Yohalem, the City's art consultant, indicated that an interpretive statement explaining the meaning of each piece was provided by the artists and should be included in the record. It was agreed that a decision on the award of the commission would be an agenda item for the December 10 meeting. The City Manager indicated that the interpretive statements would be included with the briefing materials for the December 10 meeting.

Re: Introduction of Ordinance to amend Chapter 3, "Animals" of the Rockville City Code so as to establish the responsibility of the owner of an animal placed in the care, custody and/or control of the City for all costs of boarding and maintenance and veterinary procedures relating to said animal; to provide for the collection of said costs; to clarify the definition of the term "owner" and to provide that upon the failure of the owner to make timely payment of said costs, the animals shall be deemed abandoned and forfeited to the City for appropriate disposal.

The City Attorney advised Mayor Pro Tem Coyle that adoption of these amendments would ensure prompt assessment of fees against the owners of the Rottweilers pursuant to the Order of the Circuit Court. In response to Councilmember Robbins, the City Attorney stated that all ordinances become effective upon adoption and, in the present situation, only prospective charges could be assessed. However, this Ordinance would provide the mechanism for the City to collect the costs of tattooing the Rottweilers from the dogs' owners pursuant to the Court Order.

Meeting No. 45-90

11

November 26, 1990

The Ordinance was duly introduced.

Re: Adoption of Resolution to establish licensing fees for dogs; to establish administrative and municipal infraction fines for violations of Chapter 3, "Animals" of the Rockville City Code; and to establish impoundment fees.

Pursuant to the City Attorney's advice, adoption of this Resolution was deferred until final adoption of the preceding ordinance. Councilmember Hovsepien requested clarification regarding fees set forth in the Resolution. The City Attorney responded that this Resolution brings together in one document the fees already in existence in addition to the new fees proposed in the preceding ordinance. The City Attorney also noted that the municipal infraction provisions and the impoundment and boarding fees are new.

Information was requested by Councilmember Marrinan as to when the current fees were last adjusted. Mayor Pro Tem Coyle referenced Mr. Joffe's statements during Citizens' Forum regarding imposition of civil fines and was advised by the City Attorney that the City currently has the ability to levy such fines.

Re: Preliminary Review - Text Amendment Application T-116-90, Linowes and Blocher, attorneys for First National Bank of Maryland, Applicant.

This application requests amendments to the use and development requirements of the TCO-1 Zone in order to accommodate a drive-in bank facility. Staff provided a brief overview of the text amendment noting their recommendation to reject the subject application allowing staff to continue with its review of the use, urban design and development standards of the TCO-1 Zone. Councilmember Robbins noted that persuasive arguments were given tonight to pursue this text amendment. Staff suggested that such

Meeting No. 45-90

12

November 26, 1990

a narrowly focused special purpose legislation as proposed by the text amendment makes favorable consideration difficult when reviewed under current TCO-1 Zone requirements. Staff prefers to undertake a broader analysis of the entire zone which would offer more positive opportunities to adjust the use and development standards of the TCO-1 Zone for the betterment of the whole community. Staff noted that such an analysis would take approximately six months to complete. Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, Text Amendment Application T-116-90 was accepted for processing and referral to the Planning Commission.

Re: Adoption of Ordinance to adopt  
Text Amendment Application T-  
107-90, Mayor and Council of  
Rockville, Applicant.

Ordinance No. 34-90

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, Ordinance No. 34-90, the full text of which can be found in Ordinance Book No. 16 of the Mayor and Council, was adopted to amend various sections of the Zoning Ordinance so as to transfer Use Permit approval authority on City-owned land in the Town Center from the Planning Commission to the Mayor and Council.

Re: Adoption of Ordinance to amend  
Zoning Map - Annexation  
Petition X-109-90, Mayor and  
Council of Rockville,  
Applicant.

Ordinance No. 35-90

Upon motion of Councilmember Hovsepian, duly seconded and unanimously passed, Ordinance No. 35-90, the full text of which can be found in Ordinance Book No. 16 of the Mayor and Council, was adopted to place in the R-S Zone the 3.4 acre parcel of Redgate Municipal Golf Course which was recently annexed into the City of Rockville.

Re: Presentation of relocation  
proposal for the 1991 Hometown  
Holidays celebration from

Meeting No. 45-90

13

November 26, 1990

Courthouse Square to the Middle  
Lane parking lot.

The City Manager stated that with the decision to close Courthouse Square to through traffic, construction would be required which would interfere with the Hometown Holidays celebration to be held from May 25 through May 27, 1991. An alternative site on Middle Lane with over 2.5 acres is proposed and staff proceeded to outline siting details, crowd control, safety and emergency strategies. There are a number of advantages to use of the Middle Lane site including a larger main stage area with easier access for performers; a better siting for the craft show; the ability to locate all of the food and beverage vendors in one area which will be furnished with picnic tables. It was also pointed out that generators will be used for the laser show rather than drawing electricity from PEPCO sources which created a problem last year.

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, staff was instructed to move forward with the Middle Lane site as the location for the Hometown Holidays 1991 celebration.

Re: Discussion and Instructions  
to staff - Adopt-a-Road  
Program.

The City Manager commented on the popularity of the Adopt-a-Road Program and the fact that there are three separate governmental jurisdictions involved in the program within the City of Rockville. The State Highway Administration and Montgomery County both have an adopt-a-road program with their own signs. Because these signs are posted on streets within the City, there is a need for policy directive in this matter. Although the State had been requested to defer or discontinue its program within Rockville's corporate boundaries pending the City's adoption of its own program, such a request was rejected. Twelve requests for an adopt-a-road project under a city program (yet to be implemented) have been received. A number of policy issues have been raised

regarding this program: appropriateness in densely populated areas; proliferation of signs (and whether the number of signs should be reduced); adopt-a-road signs located within the right-of-way which conflict with traffic control. Councilmember Robbins noted the need for a policy in order to gain control of the City's streets and take appropriate action regarding the unattractive signs which have little meaning for most citizens. He also noted the issue of safety with people walking alongside major roads collecting trash. Councilmember Hovsepian commented that if the City intends to pursue the program, areas which "need to be adopted" should be identified. Councilmember Coyle suggested the possibility of seeking an amendment to state or county legislation that would allow local jurisdictions to set up their own program in lieu of a state or county program. The City Manager responded that such action is not necessary at this time, but that staff could pursue the matter at the next higher level with the State Highway Administration.

It was agreed that the City Manager would take the initial step with respect to the control issue and report back to the Mayor and Council.

Re: Discussion and Instructions  
to Staff - Text Amendment  
Application T-110-90, Rockville  
Planning Commission,  
Applicant.

This application requests amendment to the Subdivision Regulations to clarify standards for resubdivision of lots in an established area. Upon motion of Councilmember Hovsepian, duly seconded and unanimously passed, staff was instructed to prepare this application for approval by the Mayor and Council consistent with the recommendations of the Planning Commission.

Re: Discussion and Instructions  
to Staff - Text Amendment  
Application T-112-90, New  
Covenant Fellowship Church,  
Applicant.

Meeting No. 45-90

15

November 26, 1990

This application requests amendment to the Zoning Ordinance to allow churches, synagogues and other places of worship as permitted uses in the I-3, Industrial Park, Zone. Upon motion of Councilmember Hovsepian, duly seconded and unanimously passed, staff was instructed to prepare this application for approval by the Mayor and Council consistent with the recommendations of the Planning Commission.

Re: Discussion and Instructions  
to Staff - Text Amendment  
Application T-113-90, Rockville  
Planning Commission, Applicant.

This application requests amendment to the Zoning Ordinance definition of "gross floor area of building" to clarify this term. Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, staff was instructed to prepare this application for approval by the Mayor and Council consistent with the recommendations of the Planning Commission.

Re: Discussion and Instructions  
to Staff - Timetable for  
adoption of a new Animal  
Control Ordinance.

The City Manager advised that a proposed timetable had been prepared for consideration by the Mayor and Council. Some work has been initiated by the Animal Control Board and staff, and it is anticipated that a draft ordinance could be prepared by December 10. According to the schedule, a public hearing would be set for January 22, 1991. The City Manager commented that he feels encouraged as a result of conversations with Dr. Holt and, by providing additional staff support and working together, he feels that the timetable could be achieved. Dr. Holt commented that she will work with staff and be in contact with the other Board members in order to accomplish the task of drafting a new ordinance. Concern was expressed as to whether the timetable was realistic, and the Mayor and Council requested that copies be made available to them in advance of any action required of them at a future meeting. It was

agreed that staff should move forward and make every effort to meet the dates outlined on the timetable.

Re: FYI/Correspondence

Montgomery County Historic Preservation Grant

Councilmember Marrinan questioned how the City would proceed from this point and was advised by the City Manager that staff has been in contact with the Historic District Commission regarding this matter and implementation work has already been initiated. More detailed information will be provided.

Re: New Business

None

Re: Executive session

Upon motion of Councilmember Robbins, duly seconded and unanimously passed, the Mayor Pro Tem and Council convened in Executive Session at 10:50 p.m. to discuss property disposition matters.

Re: Adjournment

There being no further business to come before the Mayor and Council, the meeting was adjourned at 12:25 a.m., to convene again in General Session at 7:30 p.m. on December 10, 1990, or at the call of the Mayor.